



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT  
www.dec.state.ny.us

## INSPECTION REPORT COVER SHEET

Inspection #: <u>08181143701</u>	Name of Person Contacted: <u>JAMES R. MILITELLO</u>
Name of Business: <u>MILITELLO FARMS LLC</u>	Official Position: <u>OWNER/MANAGER</u>
Street Address: <u>2929 ROUTE 39</u>	Post Office Address: <u>2929 ROUTE 39</u>
City/State/Zip Code: <u>FORESTVILLE, NY 14062-9620</u>	City/Village/Township: <u>FORESTVILLE (SHARIDAN) NY 14062</u>
Telephone Number: <u>(716) 679-1240</u>	County: <u>CHAUTAUGUA</u> <u>9620</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>JB</u>	Notice of Inspection	NOI
	Pesticide Applicator/Business/Use Inspections	USE
	Worker Protection Standard Inspection <u>(4 pages)</u>	WPS
	Liquid Termiticide Use Checklist	TER
	Ornamental and Turf Checklist	T&O
	Voluntary Statement	VOL
	Receipt for Samples	SAM
	Market Place/Restricted Dealers Records Inspection	MKT
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
Quarantine Order Release	QOR	
Experimental Use Permit Checklist	EUP	
Authorization for Medical Record Disclosure	MED	
<u>JB</u>	<u>Photocopy of USEPA Worker Checklist Form</u>	

Inspector's Signature: [Signature]Number: #437Date: 8/18/2011

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initialed by the inspector.

Signature: [Signature]Date: 8/18/2011Print Name: JAMES R. MILITELLO



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~~NOTICE OF INSPECTION~~ ~~USE/MISUSE INSPECTION~~

INSPECTION # <i>08181143701</i>	DATE <i>08/18/2011</i>	TIME <i>9:15</i> <del>AM</del> <input type="checkbox"/> PM <input type="checkbox"/>	REGION <i>9</i>
NAME OF INDIVIDUAL <i>JAMES R. MILITELLO</i>		TITLE <i>OWNER/MANAGER</i>	
NAME OF FIRM (Note if corporation, partnership, dba, etc) <i>MILITELLO FARMS LLC</i>			
ADDRESS This is the address of the: <del>INSPECTION SITE</del> <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> INDIVIDUAL <i>2929 ROUTE 39</i>			
CITY / VILLAGE <i>FORESTVILLE</i>		STATE <i>NY</i>	ZIP <i>14062-9620</i>
TOWNSHIP <i>SHERIDAN</i>	COUNTY <i>CHAUTAUGUS</i>	PHONE <i>(716) 679-1240</i>	

## REASON FOR INSPECTION

- ☐ For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale.
- ☒ For the purpose of inspecting and obtaining samples of mandated records.
- ☒ For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations.
- ☒ For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations.
- ☒ Other *WPS INSPECTION*

## VIOLATION SUSPECTED

## CONSENT USE/MISUSE

Voluntary Consent Necessary to Enter for Inspection and/or Sampling.

- ☐ The undersigned hereby voluntarily consents to an inspection of \_\_\_\_\_ of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.

SIGNATURE

TITLE

DATE

This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

## INSPECTOR INFORMATION

NAME <i>Charles C. Brown</i>	TITLE <i>Pesticide Control Supt.</i>	ID NUMBER <i>437</i>	PHONE NUMBER <i>(716) 851-7220</i>
SIGNATURE <i>Charles C. Brown</i>	OFFICE LOCATION <i>Region 9 - Buffalo</i>	ACCOMPANIED BY <i>N/A</i>	





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# PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER <b>09181143701</b>		FIRM/FACILITY/PERSON INTERVIEWED <b>JAMES R. MILITELLO MILITELLO FARMS LLC</b>		EQUIPMENT TYPE/SIZE <b>400 gal Turbo Mist Sprayer (x2) 200 gal capacity Spray units</b>	
TYPE OF INSPECTION: <input type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator <input type="checkbox"/> Non-agricultural use <input checked="" type="checkbox"/> Agricultural use		SITE OF INSPECTION <b>2929 ROUTE 39 FORESTVILLE, NY 14062-9620</b>			
BUSINESS REG. NO./EXPIRATION DATE <b>N/A</b>		INSURANCE COMPANY/EXPIRATION DATE <b>N/A</b>			
APPLICATOR NAME/CERTIFICATION TYPE		CERTIFICATION ID		CATEGORY/EXPIRATION	
<b>JAMES R. MILITELLO Private Appl.</b>		<b>P9-808312</b>		<b>CAT 22 11/2/2012</b>	
<b>FELIX HERNANDEZ APPRENTICE</b>				<b>P9-808312</b>	
DATE/TIME/WEATHER CONDITIONS DURING APPLICATION <b>8/16/11 8:00AM FAIR-SUNNY</b>		CROP <b>GRAPES</b>		SITE/SIZE <b>SILVER CREEK FARM 46.5 acres</b>	
TARGET PESTS <b>powdery mildew downy mildew</b>					
PESTICIDE NAME/EPA REG NO.		METHOD OF APPLICATION		CLASSIFICATION	
<b>CHAMP FORMULA 2 FLOWABLE 55146-64</b>		<b>SPRAYED - TURBO MIST</b>		<b>FUNGICIDE- BACTERICIDE BANDERAS USE</b>	
FORMULATION <b>LIQUID</b>		LABEL RATE <b>1 1/3 - 2 2/3 pints per acre (2 pts/acre)</b>		OBSERVED RATE <b>2 pts per acre</b>	
<b>PIMS A1 CODE # 073401</b>					
LABEL/EQUIPMENT REQUIREMENTS		REFERENCE SECTION		Yes No NA	
Label Rate Followed		325.2(b)		<input checked="" type="checkbox"/>	
Target Pests on Label		325.2(b)		<input checked="" type="checkbox"/>	
PPE/Cautionary Labeling Followed		325.2(b)		<input checked="" type="checkbox"/>	
Preharvest Interval/REI per Label		325.2(b)		<input checked="" type="checkbox"/>	
Crop/Area Treated per Label		325.2(b)		<input checked="" type="checkbox"/>	
Pesticide Containers Properly Labeled		33.1301(1)(b)		<input checked="" type="checkbox"/>	
Service Containers Properly Labeled		33.1301(1)(b)		<input checked="" type="checkbox"/>	
Containers Properly Rinsed and Disposed		325.4(a)		<input checked="" type="checkbox"/>	
Backflow Prevention/Air Gap Present		325.2(c)		<input checked="" type="checkbox"/>	
Proper Stickers on Equipment/Vehicles		325.26		<input checked="" type="checkbox"/>	
Equipment Properly Calibrated				<input checked="" type="checkbox"/>	
Storage Locked/Containers Secure				<input checked="" type="checkbox"/>	
Warning Signs Posted				<input checked="" type="checkbox"/>	
APPLICATOR REQUIREMENTS		REFERENCE SECTION		Yes No NA	
Apprentices Properly Supervised		325.7(d)		<input checked="" type="checkbox"/>	
Apprentices Trained/Documented		325.10(a)		<input checked="" type="checkbox"/>	
Apprentice Variance Approved		325.10(b)		<input checked="" type="checkbox"/>	
I. D. Card in Possession During Use		325.7(a)		<input checked="" type="checkbox"/>	
Label in Possession During Use		325.2(d)		<input checked="" type="checkbox"/>	
Notification Requirements Met		33-0905(5)		<input checked="" type="checkbox"/>	
REPORTS/RECORDS		33-1205(1)		Yes No NA	
EPA Reg. No. <b>55146-64</b>				<input checked="" type="checkbox"/>	
Product Name <b>CHAMP</b>				<input checked="" type="checkbox"/>	
Quantity <b>93 pints</b>				<input checked="" type="checkbox"/>	
Date Applied <b>8/16/2011</b>				<input checked="" type="checkbox"/>	
Address <b>SILVER CREEK FARM</b>				<input checked="" type="checkbox"/>	
Place of Application <b>VINEYARDS</b>				<input checked="" type="checkbox"/>	
Dosage Rate <b>1 1/3 - 2 2/3 pts per acre</b>				<input checked="" type="checkbox"/>	
Method of Application <b>SPRAYED</b>				<input checked="" type="checkbox"/>	
Target Organism/Crop Treated				<input checked="" type="checkbox"/>	
Records Kept 3 Years				<input checked="" type="checkbox"/>	

## REMARKS:

**SILVER CREEK FARM - HAMMOVER ROAD, SILVER CREEK, NY**

INSPECTOR'S SIGNATURE

DATE AND TIME INSPECTED

**[Signature] PSI #437 8/18/2011 9:15 AM +**



# WORKER PROTECTION STANDARD INSPECTION

Inspection # <u>08181143701</u>	Date: <u>08/18/2011</u>	Inspection: <u>Unannounced</u> <input checked="" type="checkbox"/> Appointment
Firm/Farm Name <u>MILITELLO FARMS LLC</u>	Inspection Type: Tier I <input checked="" type="checkbox"/> or Tier II <input type="checkbox"/>	
Type of Establishment: (check all applicable): <input checked="" type="checkbox"/> Farm <input type="checkbox"/> Greenhouse <input type="checkbox"/> Nursery <input type="checkbox"/> Family establishment <input type="checkbox"/> Research <input type="checkbox"/> Forest		
Approx. total area of establishment: <u>200 acres</u>	Principal crops: <u>GRAPES</u>	
# of certified applicators with establishment: <u>2</u>	Name of person(s) directing/controlling pesticide use: <u>JAMES R. MILITELLO</u>	
Who applies pesticides? (check all applicable): <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Custom Applicator		
Note: For data in this block, estimates provided by the establishment are sufficient.		
<u>DVIST, MILITELLO, ANTHONY</u> # present at this inspection: <u>3</u>	workers <input checked="" type="checkbox"/>	handlers <input checked="" type="checkbox"/>
<u>DVIST, MILITELLO, ANTHONY</u> # of permanent employees: <u>3</u>	workers <input checked="" type="checkbox"/>	handlers <input checked="" type="checkbox"/>
<u>1</u> # present during last pesticide application:	workers <input checked="" type="checkbox"/>	handlers <input checked="" type="checkbox"/>
<u>2</u> or for the last 30 days: (circle one)	workers <input checked="" type="checkbox"/>	handlers <input checked="" type="checkbox"/>

## INFORMATION AT A CENTRAL LOCATION

40 CFR 170.122/135

How to Comply Manual

		Page #
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is the approved SAFETY POSTER displayed?	23
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is EMERGENCY MEDICAL INFORMATION displayed? (name, address & telephone number)	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is the site LOCATED where it can be readily seen and read by workers & handlers?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Are workers & handlers INFORMED of the location and are they allowed ACCESS to the site?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Does the information remain LEGIBLE while posted?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is the following APPLICATION INFORMATION displayed? -Location and Description of the treated area; - Product Name; -EPA REG #; - Active Ingredient(s) of the pesticide; -Time & Date of application; - REI (restricted entry interval)	23

Comments (explain NA): Application info on WPS - Central Pesticide Form

## PESTICIDE EXPOSURE INCIDENTS/EMERGENCY ASSISTANCE

40 CFR 170.160

How are incidents reported for employees who become sick/injured by pesticides? They would report to Mr. Militello

<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is prompt transportation to emergency medical facility available for employees who become sick/injured by pesticides?	36
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Is information provided to medical personnel regarding the pesticide to which employees may have been exposed?	36

Who is the person responsible for providing transportation and pesticide information? JAMES R. MILITELLO

Y ☒ N ☐ Have there been any pesticide exposure incidents on this farm? If yes, give details: \_\_\_\_\_

Comments (explain NA): NO EXPOSURE INCIDENTS

## EMPLOYER/CUSTOM APPLICATOR INFORMATION EXCHANGE

☒ NA (no custom applications) 40 CFR 170.124 & 170.224

<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Does the ag establishment notify the custom applicator regarding the location of treated areas and REIs?	34
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u> <input type="checkbox"/>	Does custom applicator notify the ag establishment of required application information before the application?	33

How is the information exchanged? When/with whom? \_\_\_\_\_



Inspection # 08181143701

**PESTICIDE SAFETY TRAINING ASSURANCE**

**40 CFR 170.130**

**How to Comply Manual**

**Page #**

**WORKERS:** (Applies to workers who are NOT certified applicators or trained handlers)

- NA ✓ Y N Does Ag Employer ASSURE that workers have been trained within the last five years? 25
- ✓ NA ✓ Y N Does Ag Employer ASSURE that workers have been trained before EARLY ENTRY activities during an REI? 25
- NA ✓ Y N Is the Ag Employer able to VERIFY that the required PESTICIDE SAFETY INFORMATION was provided to workers 26
- NA ✓ Y N before entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?
- NA ✓ Y N Does Ag Employer ASSURE that workers have received the required ADDITIONAL TRAINING before the sixth 26
- NA ✓ Y N day of entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?

**HANDLERS:** (Applies to handlers who are NOT certified applicators or certified crop advisers)

**40 CFR 170.230**

- NA ✓ Y N Does Ag Employer ASSURE that handlers have been trained within the last five years? 25/26
- NA ✓ Y N Does Ag Employer ASSURE that handlers have been trained before performing any handling task? 25/26

How is training verified for both workers and handlers? MR M. I. TELLO CONDUCTS TRAINING / THEY SIGN TO

Comments (explain NA): NO EARLY ENTRY ALLOWED ACKNOWLEDGE HAVING  
RECEIVED TRAINING

**PESTICIDE SAFETY TRAINING PROGRAM**

NA (if workers trained elsewhere)

**40 CFR 170.130/230**

- NA ✓ Y N **WORKERS & HANDLERS:** Is the information presented in a manner that the workers & handlers can understand 27
- (such as through a translator & using nontechnical terms & presenter answers questions)?
- NA ✓ Y N **WORKERS:** Does the PESTICIDE SAFETY INFORMATION meet the criteria listed in 170.130(c)? 26
- NA ✓ Y N **WORKERS:** Does the content of the ADDITIONAL TRAINING materials meet the criteria listed in 170.130(d)(4)? 103
- NA ✓ Y N Is trainer qualified to train **WORKERS**? (certified applicator or authorized by DEC) 26
- NA ✓ Y N **HANDLERS:** Does the content of the training materials meet the criteria listed in 170.230(c)(4)? 104
- NA ✓ Y N Is the trainer qualified to train **HANDLERS**? (certified applicator or authorized by DEC) 26

Who trains workers/handlers? MR M. I. TELLO When/how often? 2005/2008/2011

Comments (explain NA): MR M. I. TELLO USES ENGLISH & SPANISH VERSIONS OF WPS PESTICIDE SAFETY  
WORKER PROTECTION VIDEO (BY UNIV OF IDAHO)

**DECONTAMINATION SITES**

The employer must adhere to the following decontamination requirements for **WORKERS and HANDLERS:** **40 CFR 170.112/150/250**

- NA ✓ Y N Do decontamination sites have soap, single-use towels, and enough water for washing & emergency eye flushing? 29-31
- NA ✓ Y N Is the decontamination water of a quality & temperature as required? 29
- NA ✓ Y N Is one pint of eye flush water immediately available to handlers using pesticides requiring protective eye wear and 31/68
- to early entry workers when working in areas treated with pesticides requiring protective eye wear for early entry?
- NA ✓ Y N Is the decontamination site within 1/4 mile of the work site and out of areas being treated or under REI? 30/31
- ✓ NA ✓ Y N Are decontamination sites provided for workers entering treated areas until 30 days following expiration of the REI? 29
- (Exception: Pesticides with a four-hour REI require decontamination site for only seven days.)
- ✓ NA ✓ Y N Are decontamination sites provided for early entry workers during and after early entry? 67/68

The employer must adhere to the following decontamination requirements for **HANDLERS:**

**40 CFR 170.250**

- NA ✓ Y N Is enough water provided to handlers for washing the entire body in case of an emergency? 30
- NA ✓ Y N Is one clean change of clothing provided to handlers for use in an emergency? 30
- ✓ NA ✓ Y N Are decontamination supplies located at the mix/load site? 30/31
- ✓ NA ✓ Y N Are decontamination supplies for **PILOTS** kept in the airplane or at the aircraft loading site? 30
- NA ✓ Y N Are handler decontamination supplies kept out of treated areas unless they are in enclosed containers? 31
- NA ✓ Y N Are decontamination supplies located where handlers remove PPE for washing thoroughly after handling activities? 31

Comments (explain NA): NO EARLY ENTRY ALLOWED - NO AIRPLANES -



Inspection # 08181143701

**ADDITIONAL DUTIES FOR WORKER EMPLOYERS**

**40 CFR 170.110**

How to Comply Manual  
Page #

**RESTRICTIONS DURING APPLICATIONS**

- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas during application and until REIs have expired? 45
- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 51/52
- ☒ NA ☒ Y ☐ N Are workers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 53-55

**NOTICE OF APPLICATIONS TO WORKERS**

**40 CFR 170.120**

- ☒ NA ☒ Y ☐ N Are all GREENHOUSE applications posted with WPS warning signs? 42
- ☒ NA ☒ Y ☐ N Are workers given BOTH oral and posted notification when required by the pesticide label? 41-44
- ☒ NA ☒ Y ☐ N Are workers given notification of applications (EITHER orally or posted) for other applications? 41-44
- ☒ NA ☒ Y ☐ N Are workers told which method will be routinely used at this firm (oral or posted notification)? - circle one 41

Who notifies workers? NO GREENHOUSES - MR. MILLER NOTIFIES WORKERS

- ☒ NA ☒ Y ☐ N Have any early entry activities occurred?
- ☒ NA ☒ Y ☐ N Were workers informed of label restrictions re: early entry?

Posted Warning Signs ☐ NA for all

- ☒ NA ☒ Y ☐ N Does the employer use the approved WPS warning signs for posted notification? 42/43
- ☒ NA ☒ Y ☐ N Are the signs posted at all entrances of worker entry to the treated area? 42
- ☒ NA ☒ Y ☐ N Are the signs put up no sooner than 24 hours prior to application? 43
- ☒ NA ☒ Y ☐ N Are the signs removed within three days after the end of the REI? 43
- ☒ NA ☒ Y ☐ N Are the signs posted along the border of any labor camp adjacent to the treated area? 42

Oral Warnings ☐ NA for all

- ☒ NA ☒ Y ☐ N Are oral warnings given in a language (s) understood by workers? 44
- ☒ NA ☒ Y ☐ N Do oral warnings include: 1) location & description of treated area; 2) REI; 3) instructions not to enter during the REI? 44

Comments (explain NA): NO EARLY ENTRY REQUIRED OR ALLOWED. ENGLISH & SPANISH

**ADDITIONAL DUTIES FOR HANDLER EMPLOYERS**

**APPLICATION RESTRICTIONS & MONITORING**

☐ NA if no handlers employed **40 CFR 170.210**

- ☒ NA ☒ Y ☐ N \*Do both the employer & the handler assure that no pesticide is applied (either directly or through drift) so as to contact anyone other than trained and PPE-equipped handlers: 73
- How is this verified?
- ☒ NA ☒ Y ☐ N Are handlers monitored visually or by voice every two hours when handling SKULL & CROSSBONES pesticides? 73
- ☒ NA ☒ Y ☐ N Does the handler have a continuous visual or voice contact with another trained and PPE-equipped handler when handling a FUMIGANT in a GREENHOUSE? 73/74

**SPECIFIC INSTRUCTIONS FOR HANDLERS**

☐ NA if no handlers employed **40 CFR 170.232**

- ☒ NA ☒ Y ☐ N Does the employer assure that handlers read the label or are informed (in a manner they can understand) about the label requirements for safe use before performing any handling activity? 75
- ☒ NA ☒ Y ☐ N Does the handler have access to the product labeling during handling activities? 75

**SAFE OPERATION OF EQUIPMENT**

☐ NA if no handlers employed **40 CFR 170.234**

- ☒ NA ☒ Y ☐ N Is the handler instructed in the safe operation of handling equipment before it is used? By whom? James R. Miller 75
- ☒ NA ☒ Y ☐ N Is handling equipment inspected and repaired before each day of use? 77
- ☒ NA ☒ Y ☐ N Does the employer assure that only trained and PPE-equipped handlers repair, clean or adjust any handling equipment that contains pesticides or pesticide residues? 77

Comments (explain NA):

**PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS FOR HANDLERS/EARLY ENTRY WORKERS****40 CFR 170.112/240**

- NA ☒ Y ☐ N Does the employer provide the handler/early entry workers with the appropriate PPE in clean and operating condition? 79
- NA ☒ Y ☐ N Does the employer assure that instruction on use and cleaning of PPE is given and that it is worn and used correctly? 79
- Who gives instructions and assures use of PPE? JAMES R MILITELLO - WPS TRAINING
- NA ☒ Y ☐ N Does the employer assure that PPE is inspected, cleaned, stored properly & repaired or replaced before each day of use? 79
- NA ☒ Y ☐ N Does the employer assure that filters are replaced on respirators when required? 80
- NA ☒ Y ☐ N Do handlers/early entry workers have a clean place to store personal clothing, put on PPE and remove PPE after use? 79
- Where is it located? 2924 Route 39, Wallkill, NY
- NA ☒ Y ☐ N Is contaminated PPE disposed of properly? 79
- NA ☒ Y ☐ N Does the employer take appropriate measures to prevent heat-related illness for handlers/early entry workers using PPE? 79
- NA ☒ Y ☐ N Have handlers refused to wear proper PPE?

From labels of agricultural pesticides documented in an accompanying AUO inspection, list the following (for up to 4 products):

	Product Name	REI	PPE
1	<u>CHAMP FORMULA 2</u> <u>PROVOCABLE</u>	<u>24 HOURS</u>	<u>COVERALLS, chemical resistant gloves or water proof material, shoes plus socks, protective eyewear.</u>
2			
3			
4			

If the label for any of the above products does not include agricultural use requirements - state so above.

Comments (explain NA):

**WORKER AND HANDLER INTERVIEWS**

- ☒ Y ☐ N Were any workers or handlers interviewed? (circle which were) If no for either, explain why an interview was not conducted.

NO WORKERS PRESENT & NO HANDLERS PRESENT AT TIME OF INSPECTION.**FAMILY ESTABLISHMENTS****40 CFR 170.104/110/112/124/224/240**

- ☒ NA ☒ Y ☐ N Are employees only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters? 91
- If NO, skip this section.
- ☒ NA ☒ Y ☐ N Are non-handlers prohibited in treated areas during application and until REIs have expired? 92
- ☒ NA ☒ Y ☐ N Are non-handlers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 92
- ☒ NA ☒ Y ☐ N Are non-handlers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 92
- ☒ NA ☒ Y ☐ N Are early entry workers prohibited in treated areas during the first four hours after application? 93
- ☒ NA ☒ Y ☐ N Are early entry workers limited to one hour of work in a 24-hour period in treated areas during the REI? 93
- ☒ NA ☒ Y ☐ N Are early entry workers who perform irrigation and limited contact activities limited to eight hours of work in a 24-hour period? 93
- ☒ NA ☒ Y ☐ N Is the correct PPE for early entry PROVIDED for early entry activities at this firm? 93
- ☒ NA ☒ Y ☐ N Does the handler at this firm wear the label-specified PPE during handling tasks? 92
- ☒ NA ☒ Y ☐ N Is the label-specified PPE for handling activities at this firm PROVIDED in clean and operating condition? 92
- ☒ NA ☒ Y ☐ N Does this establishment notify commercial handlers regarding location of treated areas and REIs on the establishment? 92
- ☒ NA ☒ Y ☐ N Do commercial handlers notify this establishment of required application information before application takes place? 92

Comments (explain NA): NOT A FAMILY FARM - HAS WORKER & HANDLER EMPLOYEES

Additional Comments:

Print name of inspector <u>BRANDON C BROWN</u>	Print name of person interviewed <u>JAMES R MILITELLO</u>
Signature of inspector <u>[Signature]</u>	Signature of person interviewed <u>[Signature]</u>



NYS Dept of Environmental Conservation URPCEP CHECKLIST To be used with NAUO, CAR, and RDR inspections

Inspct Type	Question/Action	Y	N	N A	Remarks
ALL*	1. Opening conference.	✓			
	2. Inspection of pesticide storage area:	✓			
	a Any pesticides on hand that seem inappropriate for establishment or site?		✓		
	b Are there supplies of clean household containers that could be filled with pesticides and left with customer/tenants?		✓		
	c Any pesticides in unlabeled packaging or "household" packaging?		✓		
	d Are restricted use pesticides in storage?	✓			ON OCCASION AS NEEDED
	e Are there security measures in place to prevent unauthorized entrance and use of pesticides?	✓			
	f Have any pesticides been stolen/ pilfered from inventory - particularly RU or agricultural ones?		✓		
CAR	1. All CAR inspections- conduct review of Applicator records.	✓			
	a Structural Related: Any structural applications of seemingly inappropriate pesticides?			✓	FARM
	b Agricultural Related: Has methyl parathion been used in the last year?		✓		
	Any discrepancies between amount of RU pesticides purchased and applied, or undocumented returns?		✓		
RDR	1. Is this establishment engaged in the retail sale of methyl parathion?			✓	
	2. Do purchasers produce a commodity on which the pesticide is used?				
	a Have all sales of RUPs been made to either:				
	A person who is certified to use it?				
	An individual under the direct supervision of a currently certified applicator authorized to use the product?				
	3. Have there been sales of methyl parathion EC in the past two years?				
	a What methyl parathion products in particular does the dealer sell?				
	b What crops are the products used on?				
	4. If this is not a methyl parathion emulsifiable concentrate dealer, have any of the other ag pesticides referenced in attachment "5A" of URPCEP Protocol been sold for the past few years?				
	a If not, have any other agricultural pesticides, particularly RU ones, been sold?				
	5. Does the dealer conduct audits of its pesticide inventory? How often?				
	6. Has there ever been an unexplained discrepancy between the amount of methyl parathion or other ag use pesticide in inventory and amount that inventory records indicate should be there?				
	a What was the pesticide?				
	b Was the discrepancy resolved as 1) bookkeeping error? or 2) was theft suspected?				
	7. Has methyl parathion or any RU agricultural pesticide been stolen from inventory? If yes, document particulars (i.e. person's name, the intended use of pesticide) and ask for a copy of any police report, report to the insurance company or other information relating to the theft.			✓	
ALL*	3. Closing conference.	✓			

\* When only conducting an NAUO inspection, these blocks of questions/actions are the only ones that need to be covered.

INSPECTION # 08181143701

(BIB)

POST #437



Assignment No./ Inspection No.	08181143701
Complainant	N/A
Firm Name	James R. Militello – Owner/Manager Militello Farms LLC 2929 Route 39 Forestville, NY 14062 (716) 679-1240
Date of Inspection	08/18/2011
Report Date	08/23/2011

#### SPECIALIST'S NARRATIVE:

On 08/18/11, I, Bradford C. Brown, PCS I, #437, traveled to Militello Farms LLC in Forestville, New York. During my visit I conducted a series of inspections to try to determine whether Militello Farms LLC. was in compliance with Federal Worker Protection Standard (WPS) requirements and New York State laws, rules and regulations relating to the use of pesticides for agricultural pest control. In addition to the WPS inspection, I also conducted an Agricultural Use Observation (AUO\*) inspection and associated Certified Applicator Records (CAR) inspection. I also reviewed the series of questions from the USEPA Urban and Residential Pesticide Control and Enforcement Program (URPCEP) checklist during the course of my visit.

When I arrived at the farm I presented my credentials and introduced myself to the individual who greeted me, Mr. James R. Militello. I reminded him of the purpose of my visit, as the inspection had been scheduled the week before, and a Notice of Inspection was issued to James R. Militello, a certified pesticide applicator and the Owner and Managing Partner of Militello Farms LLC, at 9:15 AM.

Upon conducting and completing my WPS inspection, using the WPS inspection checklists, I determined that Militello Farms LLC is in compliance with the requirements of the WPS for farms that employ workers and/or handlers. No WPS related interview of workers/handlers was conducted during this inspection, as there were no employees present on the farm at the time of this inspection.

Mr. James R Militello is a certified pesticide applicator who holds applicator Certification ID Number P9-808312, in Private Category 22 (Fruit), and which expires 11/21/2012. He and one of his employees, Felix Hernandez, are the only individuals responsible for applying and/or handling pesticides on the farm. I checked copies of the farm's pesticide application records including the last application made, which occurred on 08/16/2011. All information required by Article 33, Section 33-1205(1), the daily application records, was recorded and the records viewed were in good order.



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On 08/16/2011 Mr. Militello applied *Champ Formula 2 Flowable*, EPA Reg. No. 55146-64, a NYS registered, general-use fungicide/bactericide product, to his grapes for the control of powdery mildew and downy mildew. This application took place on the "Silver Creek Farm", which is a leased vineyard located on Hanover Road, in Silver Creek. The label rate allows for the application of 1 1/3 pints up to 2 2/3 pints of *Champ Formula 2 Flowable* per acre, and the records indicate that the product was applied at a rate of 2.0 pints per acre.

Mr. James Militello stated that he and his handler wear the proper personal protective equipment, as required according to the pesticide products' label instructions whenever pesticides are applied on his farm. Mr. Militello also has the benefit of an enclosed cab, specifically designed for pesticide applications on both of his tractors. Mr. Militello also showed us the type of eyewear, coveralls, boots, gloves and s that they wear when conditions or label requirements call for them. Mr. Militello stated that all empty pesticide containers are triple rinsed, punctured and taken to a landfill for disposal. He stated that all surplus mixed pesticides, and any surplus pesticides, are used and the he tries to keep only what he needs for each application on hand so that he does not have quantities of pesticides stored on the farm.

As part of the EPA's URPCCEP initiative, Mr. Militello was asked if he had been approached about giving agricultural pesticides to, or if he had given agricultural pesticides to, friends, family or neighbors to apply on their property. Mr. Militello replied that he has not and that he does not do so, nor would he consider doing so. I also asked if any pesticides have been stolen or pilfered from his farm's inventory, to which Mr. Militello replied no.

According to Mr. Militello, all required personal protective equipment was being worn when he and/or his handler performed applications. All pesticide equipment used at this farm was visually inspected and appeared to be in good repair and in working order. No apparent WPS violations were observed at this time, nor were any other pesticide use related violations observed at this time.

The determination of any pending enforcement action and the extent of said action, based upon the results of this inspection, will be determined by Glenn Reinhardt, PCS II, following review of this inspection report.

  
Bradford C. Brown  
Pesticide Control Specialist I